REMARKS

Applicant submits this paper in response to the office action dated January 19, 2007. As is detailed more thoroughly below, Applicant provisionally elects Group II, which comprises claims 15-20, for further prosecution on the merits, *with traverse*, thereby preserving the right to petition the Commissioner for review of any final restriction requirement.

No fees are believed to be necessary for proper entry and consideration of this Amendment. Nevertheless, if the Office deems otherwise, kindly charge the cost thereof to Deposit Account No. 13-2855, Order No. 30120/32007.

In light of the following remarks, Applicant believes the present application is in condition for allowance and respectfully request the Office to acknowledge the same.

ELECTION/RESTRICTION REQUIREMENT

The Office Action requires an election to be made under 35 U.S.C. §121 and §372 between the following groups of inventions, which allegedly fail to be so linked as to form a single general inventive concept under PCT Rule 13.1:

Group I: Claims 1-14, drawn to an arrangement; and

Group II: Claims 15-20, drawn to a method for division of animals.

Applicant respectfully traverses this requirement.

LACK OF UNITY OF INVENTION STANDARD NOT SATISFIED

The Office Action alleges that the inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features. Specifically, the Office states that Group I, as represented by claim 1, generally recites an arrangement, while Group II, as represented by claim 15, recites a method for directing animals to a stunning apparatus. The Office attempts to support this conclusion by alleging that "a stunning apparatus is not recited in the independent claim of group-I." Applicant respectfully disagrees.

Independent claim 1 recites "Arrangement for division of animals into groups and transfer of groups of animals to a ***stunning apparatus*** (3), comprising an oblong corridor

section (10) in which animals can be driven from an entrance end to an exit end, which gate is placed in such a way that the corridor area (10b) between the division gate and the exit end has room for a number of animals corresponding to the group size, and a transfer section (16) provided in continuation of the corridor section (10) at the exit end of the section which transfer section has room for a number of animals corresponding to the group size, and which section has a connection with the entrance to the ***stunning apparatus***."

Furthermore, Applicant submits that the claims of Group I and the claims of Group II relate to a single general inventive concept in that there is a technical relationship between the subject matter claimed in each alleged Group involving one or more of the same corresponding special technical features.

Specifically, in accordance with 37 CFR §1.475(b)(4), Applicant submits that Group I, as represented by independent claim 1, constitutes an apparatus specifically designed for carrying out the process of Group II, as represented by claim 15, and therefore, satisfies the unity of invention standard. While this indicates that the unity of invention standard has been satisfied, it in no way implies that the apparatus could not be used to carry out another process, or whether the process could be carried out by another apparatus, as indicated by MPEP §1893.03(d).

In light of the foregoing, Applicant submits that the presently outstanding restriction requirement is improper, and respectfully traverses the same.

SEARCH AND EXAMINATION CAN BE MADE WITHOUT SERIOUS BURDEN

Furthermore, according to the MPEP §803, for restriction to be proper, search and examination of the entire application must impose a serious burden on the examiner. Specifically, "[i]f the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions." *Id.* The restriction requirement is traversed because there is no evidence that search and examination of the entire application would impose a serious burden on the PTO.

A serious burden on the examiner may be shown by an appropriate explanation of separate classification, separate status in the art, or a different field of search, among other reasons, but the Office action provides no explanation whatsoever of any burden on the

examiner necessitating restriction of the claims. Indeed, the Office action has not even alleged that there would be a serious burden. The claims corresponding to Groups I and II are concerned with similar subject matter (e.g., an arrangement for division of animals into groups and transfer of groups of animals to a stunning apparatus, and a method for division of animals into groups and transfer of groups of animals to a stunning apparatus). Accordingly, a complete search directed to the subject matter recited in the claims of either of the identified groups necessitates a search directed to the subject matter recited in the claims of the other group. Applicant fails to see how separate searches would be necessary for an arrangement and a method for division and transfer of animals into a stunning apparatus.

Because search and examination of the entire application can be made without serious burden on the Patent Office, it would be wasteful of the time, effort, and resources of both the Applicant and the Patent Office to prosecute claims directed to the arrangement and the method in separate applications. Furthermore, if the restriction requirement is maintained, the Applicant will likely incur additional prosecution costs associated with filing one or more divisional applications, and the Patent Office will be required to perform duplicative searches and expense duplicative resources. Thus, withdrawal of the restriction requirement will actually reduce the burden on the Patent Office and on the Applicant.

Accordingly, Applicant respectfully requests withdrawal of the restriction requirement.

RESTRICTION REQUIRES ADMISSION CONCERNING THE PATENTABILITY OF THE CLAIMS

Finally, Applicant submits that if the outstanding restriction requirement is maintained, then the Patent Office admits that the embodiment in each group is patentable over the disclosure of each of the other embodiments in each of the other groups. See, e.g., MPEP §802. These admissions are necessary to the Office's entry of the restriction requirement and may be relied upon by the Applicant during examination of this application and future divisional applications, unless the restriction requirement is withdrawn. If the Office is not making these admissions regarding patentability, then the restriction requirement should be withdrawn.

PROVISIONAL ELECTION

In accordance with 37 CFR 1.143, Applicant hereby provisionally elects to prosecute Group II, claims 15-20, *with traverse*. In making this provisional election, Applicant does not intend to abandon the scope of the non-elected claims as originally filed, but may, if required, choose to pursue them either by petition for further review or in a divisional application in the event the Office chooses to make the restriction requirement final.

CONCLUSION

Applicant believes that all outstanding concerns have been either traversed, accommodated, or rendered moot, and therefore, prompt and favorable consideration of this application is requested.

Furthermore, despite the foreign origin of the present application, Applicant hereby invites the Examiner to telephone the undersigned in this case or any other case, if such a telephone call is deemed appropriate. Accordingly, if the Office believes that there is any outstanding issue that may be remedied via telephone conference in the present case, please feel free to contact the undersigned at (312) 474-6300.

Dated: February 20, 2007

Respectfully submitted,

By _____

Michael P. Furmanek
Registration No.: 58,495
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Attorney for Applicant